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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Fiftieth session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 August 1998, at 3 p.m.

Chairman: Mr. GUISSÉ

later: Mr. FAN Guoxiang
(Vice-Chairman)

later: Mr. GUISSÉ
(Chairman)

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(continued)

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GE.98-13731 (E)

The meeting was called to order at 3 p.m.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD;

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT

(agenda item 5) (continued) (E/CN.4/Sub.2/1998/11; A/52/38/Rev.1, E/1998/27-E/CN.6/1998/12)

1. Ms. McDOUGALL said that trafficking in persons was a growing and serious problem throughout the world. Most of the traffickers operated with impunity. It was a lucrative, low-risk business compared with trafficking in drugs or weapons but was increasingly being organized by criminal syndicates. Some of the trafficking routes spanned great distances with victims being moved halfway across the world, while others spanned only the distance from a village to a city or across a border.

2. While women and girls had always been the focus, trafficking was a global phenomenon and the victims could be of either sex as well as of any age, race or nationality. The majority of victims, however, were women and girls due to gender inequality in the family and in society, gender discrimination in education and employment, harmful cultural stereotypes of women and girls as sexual objects, and the worldwide feminization of poverty. Members of minority groups were particularly vulnerable. The most likely risk factor for victims of trafficking was poverty.

3. People became the victims of trafficking for a wide variety of exploitative purposes: prostitution and other forms of sex work; manual or industrial labour; marriage, adoption or other types of relationships; or domestic servitude. People who were recruited or transported into slavery or forced labour of any kind should, in every circumstance, be considered to be victims of trafficking.

4. Women and girls who entered the sex industry faced special legal, psychological and social hurdles not faced by other victims of trafficking: due to the social stigma they often found reintegration into society difficult if not impossible. The criminalization of prostitution increased the vulnerability to abuse and exploitation of women who had been the victims of trafficking. Placing undue emphasis on restricting border entry might also be the wrong approach in that it might merely increase the desperation of potential trafficking victims and enable traffickers, corrupt officials and others to exploit unwary economic migrants.

5. It was critical that efforts on trafficking issues should be pursued collaboratively in a multidimensional approach, with a continuing dialogue between the United Nations and its specialized agencies, national Governments, donor institutions and non-governmental organizations (NGOs) working with local communities, regionally and nationally. The primary goal of all anti-trafficking initiatives should be the protection of the human rights of all persons and should not be limited to border control and crime prevention

efforts. They should also include social welfare and victim assistance programmes which addressed the root causes of trafficking in source, transit and destination countries and locales. States and the various international and regional development agencies should, in consultation with NGOs, institute gender-integrated development programmes in those regions of source countries in which women and girls were particularly vulnerable to trafficking.

6. Human rights law, standards and principles should be extended to all trafficking victims regardless of citizenship, residence or national status. It was crucial that the victims should be able to seek protection from State and local authorities without fear of persecution or summary deportation; should be given free legal aid and interpretation services; be afforded appropriate medical attention both physical and mental; be given assistance in obtaining employment and housing, social welfare benefits, work and residence permits, visas or asylum; and be given the opportunity to return home if they so desired. Trafficking victims should also be able to seek legal recourse in criminal or civil proceedings against their exploiters.

7. Without limiting the freedom of women to travel, authorities likely to encounter trafficking victims should be properly trained to recognize trafficking situations: States should launch education campaigns to make potential victims aware of their rights, particularly in destination countries, and consulates, embassies and travel agencies should advise potential victims of the risks, consequences and warning signs of trafficking.

8. States should strengthen their legislation and policies against trafficking by ratifying the relevant international conventions, and the Sub-Commission should authorize the Working Group on Contemporary Forms of Slavery to study the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others with a view to determining whether it adequately addressed the problem of trafficking and protected the human rights of the victims and, if not, whether it should be supplemented by a protocol or replaced by a new convention.

9. Mr. PARK noted with interest a couple of positive elements in Mrs. Warzazi's second report on the situation regarding the elimination of traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/1998/11) but said that, in her conclusion, she had expressed regret that the lack of replies from Governments and particularly from those most concerned by harmful practices had made it impossible for her to complete her task. Governments should reply both early and fully. Moreover, the level of Secretariat assistance given to her needed to be substantially increased and sustained so that she could continue her research and analysis and her collection of information.

10. Referring to the statement made by Ms. McDougall on trafficking in persons, he said that action was undoubtedly needed at national, international and NGO levels.

11. Mr. BOUTKEVITCH said that Mrs. Warzazi had produced a valuable second report on the situation regarding the elimination of traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/1998/11) despite a lack of cooperation from Governments. He noted that she had

received no replies or cooperation from the Government of any country in Eastern Europe or of any country that had formed part of the Union of Soviet Socialist Republics, and hoped that she would receive greater assistance and support in the future.

12. In the constitutions of all those countries, women had equal status with men and, until recently, the situations regarding women and the girl child had been considered fairly favourable. What was important, however, was not whether good laws existed, but whether they were implemented. Eastern European Governments had always asserted that national legislation existed as a result of which the situation of women and the girl child had improved but, in recent years, Eastern European women had been able to compare their situation with that of women in Western Europe and had concluded that their Governments' assertions were empty ones. As a result of unemployment and the non-payment of wages, women in Eastern Europe often found themselves sold into slavery. Children in large towns sold their bodies and even themselves with the encouragement of their unemployed parents. As a result, both women and children became victims of AIDS, as well as of other sexually transmitted diseases, and of violence committed by clients.

13. The trade union movements in the countries of Eastern Europe and the former Soviet Union were dead letters so there was hardly any organized protection of the workforce. Increasing unemployment had led to growing alcoholism among both men and women, resulting in domestic violence and crime of which women were most frequently the victims; there had been a substantial growth in the number of murders of women.

14. The number of unemployed women was much greater than that of men; traditionally, women were paid less than men, and dismissed from work more readily than men. When schools and hospitals were closed down, women were more affected than men because they were more strongly represented in the respective workforces. Privatization in the medical sphere took no account of vulnerable groups, and produced negative consequences in terms of the increased price of medicines which became inaccessible to many people. There were fewer hospitals and fewer hospital beds, so women gave birth increasingly in the home and often without professional assistance. Charlatanism was on the increase, and even encouraged by advertisements in the media.

15. Aside from the initial military operation, men and women had taken an equal part in the efforts to liquidate the consequences of the accident at the Chernobyl atomic power station, but the men had received much more than the women in terms of social benefits, which included free medical treatment, stays in sanatoriums and extra leave.

16. Mr. MacDONALD (United Nations Population Fund (UNFPA)) said that gender issues, including the promotion of equity, equality and full participation of women, were integral parts of all UNFPA activities. In addition to its advocacy activities, UNFPA had for several years been working with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other international and non-governmental organizations in providing reproductive health services to refugees, internally displaced persons and returnees. In addition to counselling, special services were provided, especially to women and girls who had been the victims of sexual abuse and violence. Projects had

been and were still being carried out in Bosnia, Croatia, the Great Lakes region of Africa, other countries of sub-Saharan Africa, the Middle East and Asia.

17. UNFPA was supporting a number of concrete actions against specific human rights violations and assisting women to stand up for their own rights and to make better use of existing legal instruments. It supported a number of organizations working to enhance national capacity to develop legislation to strengthen reproductive rights and women's empowerment, to promote knowledge on family law and women's rights, to promote a correct interpretation of Islamic teaching on population and human rights issues, and to promote legislation against domestic and sexual violence.

18. Together with the United Nations Institute for Training and Research (UNITAR) and the International Organization for Migration (IOM), UNFPA was organizing a series of courses for government officers on the human rights dimensions of migration. In July 1998, UNFPA had signed a memorandum of understanding with the Office of the High Commissioner for Human Rights as a result of which it was seconding a member of its staff to that Office.

19. Ms. MADUAKOH (Office of the United Nations High Commissioner for Refugees) said that the unique functions of UNHCR implied some specific obligations with regard to programmes for refugee women who, with their dependants, represented more than 80 per cent of the beneficiaries of its programmes. UNHCR recognized that becoming a refugee affected men and women differently, and that effective programming had to recognize those differences. Its policy on refugee women was based on the principle of mainstreaming refugee women's concerns into all policies and guidelines designed specifically to ensure their protection. It also had a high-level reference group on refugee women which was chaired by the Deputy High Commissioner. Action was taken to enable refugee women to participate and make a positive contribution, ensuring their greater involvement both as participants and as beneficiaries in the social and economic activities of the projects.

20. To ensure that that policy was carried out effectively, UNHCR had undertaken gender awareness and sensitivity training. All members of staff and implementing partners were made aware that the traditionally defined roles and responsibilities for men and women were societal constraints which no longer held true in a refugee camp. The new situation created by upheaval, flight and asylum involved many women becoming heads of households, because the men were no longer present to perform their traditional roles.

21. Lack of awareness on the part of refugee women of their rights and entitlements often resulted in them being unable to ensure that their rights were met. That was being addressed through awareness campaigns. It was hoped that, as a result, refugee women would achieve self-sufficiency for the duration of their stay in a country of asylum and would be able to play an active role upon their return to their countries of origin.

22. Some of the traditional practices of refugee communities were harmful to health, well-being and development, and it was women and girls who were most usually affected. UNHCR had taken very seriously the Sub-Commission's Plan of

Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children and, where possible, had promoted and implemented its recommendations in its programme planning. Female genital mutilation and early childhood marriages were examples of harmful traditional practices that were most prevalent among some populations of concern to UNHCR; they were internationally condemned due to the grave health risks they entailed, as well as the human rights principles they violated.

23. Harmful traditional practices violated such rights as the right to life, the right to security of person and the right to freedom from torture and other cruel, inhuman or degrading treatment. UNHCR endorsed the joint statement by the World Health Organization (WHO), the United Nations Children's Fund (UNICEF) and UNFPA on female genital mutilation.

24. Action to eradicate harmful traditional practices inevitably conflicted with cultural norms. UNHCR focused its educational and informational efforts on the negative consequences of such practices, targeting religious and traditional leaders, traditional birth attendants, other health workers and refugees. It provided technical support and resources for national and local groups engaged in community-based activities.

25. In Kenya, local NGOs had dealt with the issue of female genital mutilation in workshops covering other reproductive health issues, including sexually transmitted diseases and HIV/AIDS. In Ethiopia, on the other hand, the issue had been successfully addressed in isolation. Other initiatives included the provision of alternative income-generating activities for those who carried out harmful traditional practices. Australia, Canada, the United States and many European countries had legislated against female genital mutilation.

26. UNHCR was concerned at the indignities and threats, notably sexual violence, inflicted on refugee women by bandits, by combatants and sometimes even by fellow asylum seekers or officials in various parts of the world.

27. Ms. CECHUROVA (Transnational Radical Party) said that, since some of the most serious cases of violence against women would fall within the jurisdiction of the new International Criminal Court, her organization was gratified to note the satisfactory gender balance achieved in the Court's Statute and urged that it should start work without delay.

28. The people of Afghanistan, and the women in particular, were victims of severe violations of the right to life, liberty and security of person and to freedom of opinion, expression, religion and association. Women were denied access to basic education, health care, training and employment, and were barred from participating in political, economic, social and cultural life, although the Taliban's interpretation of Islam was rejected by a large proportion of the Islamic world.

29. The United Nations Drug Control Programme had regrettably concluded an agreement with the Taliban on funding the eradication of poppy straw. Such a move was not only of dubious efficiency, it also conferred legitimacy on the

regime. Her organization called for the suspension of all cooperation programmes, except humanitarian relief, until the Government in Afghanistan showed respect for the human rights of both men and women.

30. Ms. RAS-WORK (Inter-African Committee on Traditional Practices) said that the report by the Sub-Commission's Special Rapporteur on traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/1998/11) demonstrated her commitment to the advancement of women's rights. Nevertheless, the lack of government response to her inquiries regarding the implementation of the Plan of Action adopted in 1994 (E/CN.4/Sub.2/1994/Add.1 and Corr.1) had severely hampered her work. The Sub-Commission should thus request increased resources to enable the Special Rapporteur to make field visits, organize consultations and enhance communications on the subject of traditional practices. The Sub-Commission should also review the action taken since the two regional seminars held in Burkina Faso in 1991 and Sri Lanka in 1994.

31. In September 1997, her organization had organized a symposium for African legislators in collaboration with the Organization of African Unity (OAU) and the Economic Commission for Africa (ECA) to consider the issue of violence against women in general and female genital mutilation in particular. The symposium had adopted the Addis Ababa Declaration which called on Governments to eliminate all forms of traditionally condoned violence and its final report had been endorsed by the OAU Council of Ministers and Assembly of Heads of State and Government.

32. With the support of the Gambian Government, her organization had also organized a symposium on traditional practices in the Gambia in July 1998, which brought together religious leaders and medical personnel from 11 African countries. Islamic and Christian religious leaders had unanimously condemned traditionally condoned violence such as female genital mutilation and issued a communiqué at the end of the symposium calling on all religious leaders to join in the campaign to eradicate such practices.

33. Ms. BRIDEL (International Association of Democratic Lawyers) said that the Algerian authorities had reacted with contempt to the Algerian women's movement in support of an overall revision of the reactionary Family Code. Algerian women drew an analogy between the fundamentalist violence perpetrated against families in the villages and that perpetrated against women in the Family Code. A Committee representing 70 women's associations had demanded 22 amendments of the most discriminatory articles. The authorities had responded that the proposed amendments were incompatible with Islamic principles and certain articles of the 1996 Constitution while, according to the Prime Minister, any review of the Code must take into account the need to consolidate the family unit.

34. The women's associations had demanded the abolition of polygamy, of guardianship for adult women and of inequality in marriage and the introduction of shared parental authority and the allocation of the family home to the parent having custody of the children. The authorities had responded with a preliminary draft that maintained all those provisions

unchanged. Some cosmetic changes had been introduced in the areas of divorce, alimony and division of property, but women's legal incapacity had been maintained.

35. Ms. BENNINGER-BUDEL (World Organization against Torture), having commented that certain mainstream human rights mechanisms and bodies tended to ignore matters of fundamental concern to women because of the absence of a gender-sensitive approach in their work, said that in February 1998, the Superior Council of the Cultural Revolution of Iran had vetoed accession to the Convention on the Elimination of All Forms of Discrimination against Women. In Afghanistan, women were basically under house arrest. They were denied medical care unless accompanied by a close male relative. Their subservient status meant they had no way of protecting their physical and psychological integrity and they were particularly vulnerable to violence.

36. Gender inequality led to difficulties in the investigation and prosecution of the crime of rape, particularly when the perpetrator was a State official. As sexual assault was a form of torture, the impunity of the torturer was proportionately more serious.

37. Women and girls of ethnic Chinese origin had been systematically raped during the recent riots in Indonesia and there were strong indications that the Indonesian military had been involved. Similarities with acts of rape perpetrated by the military in East Timor, Aceh and West Papua had been noted. The Sub-Commission should recommend that an office of the High Commissioner for Human Rights be opened in Jakarta to assist the Government in implementing reforms and monitoring the human rights situation. In Sri Lanka, also, soldiers had raped Tamil women and young girls on a massive scale and often with impunity, because reporting led to reprisals against the victims and their families.

38. The Sub-Commission should insist that all United Nations human rights mechanisms and bodies paid special attention to gender-specific forms of violence and collaborated actively with the Special Rapporteur on violence against women in finding ways to put an end to such practices.

39. Ms. SANCHEZ (International Peace Bureau) said that the situation in Mexico had become intolerable, with widespread and serious human rights violations. The rights of indigenous peoples were being systematically and repeatedly violated. In the State of Chiapas, the Women's Group of San Cristóbal de las Casas had received over 300 complaints of rape of indigenous women between January 1994 and March 1997. In August 1996, two girls aged 13 and 15 had been raped, tortured and murdered by a paramilitary group. The leaders of the Kinal Ansetik organization of indigenous women had received death threats from paramilitary groups. Intimidation and physical and psychological assault often went unreported because the women were afraid of reprisals.

40. The indigenous women of Mexico, who aspired to live in peace and dignity, called on the Sub-Commission to adopt an outspoken resolution that would demonstrate its commitment to the role of the United Nations as protector of all human rights, including the rights of indigenous peoples and the rights of women.

41. Mr. Fan Guoxiang, Vice-Chairman, took the Chair.

42. Ms. GANDHI (Indian Council of Education) said that, since many developed countries had not completely eradicated prejudice against women, it was unlikely that underdeveloped countries would grant their women any greater freedom. Moreover, the resurgence of religious fundamentalism had tended to make the situation worse.

43. The new international economic order was to have given women a definite role in development, yet the fact that rigid social and religious patterns prevailed in the least developed countries was often ignored. However, women's freedom was not a function of economics or material wealth alone, but also of enlightenment and education: South Asia, for all its poverty, had produced outstanding women in many fields; India, though steeped in tradition, reserved seats for women in local government. If progress had been made there, however, it was because the women's movement had made a determined effort to secure the rights that men had long enjoyed.

44. Those rights could best be preserved when women were granted equal opportunity in education, which brought skills and an awareness that women had the right to exploit those skills. Civil society and Government needed to work together to ensure women's full participation in development. That was not likely to happen, however, in countries whose legal structures treated women as second-class citizens.

45. The chief contemporary threat to women's rights came from terrorism, which denied them the one right all women demanded: the right to secure the lives and welfare of their children. The international community should ostracize societies that discriminated against women by constitutional, institutional and legal means or encouraged extremist, fundamentalist or terrorist groups; and it should encourage Governments and NGOs to establish educational programmes for all in order to do away with customs and traditions that prevented women from becoming full partners in development.

46. Ms. ARIF (Interfaith International) said that the mistreatment of women by the Taliban Government in Afghanistan contravened every single article of the Convention on the Elimination of All Forms of Discrimination against Women. Women were denied equal access to political and public life, freedom of movement, and access to education and work outside the home. They faced the threat of beatings or even death if they dressed incorrectly. Despite the Taliban Government's contentions, there was no theological foundation for such mistreatment. In any case, whatever religious justification was advanced, her organization, which was devoted to tolerance between religions, saw the issue as one of women's human rights. She thus urged all Governments committed to the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women to press for changes to the policy towards women in Afghanistan, backed up by sanctions in respect of external assistance and the supply of arms. She also called upon all religious leaders and scholars to use their influence with the Taliban Government to relieve the oppression of women in Afghanistan and the Sub-Commission to pay particular attention to their plight.

47. Ms. PARKER (International Educational Development, Inc.) commended the Sub-Commission for its attention to the problem of government-led violence against women, in particular rape, torture and violence in the context of armed conflicts. She was particularly pleased to see the attention given to the issue of Japan's war rape scheme in the appendix to the final report submitted under agenda item 6 (E/CN.4/Sub.2/1998/13). War rape had for centuries been considered a war crime and universally condemned, yet it persisted - and was sometimes endemic - in armed conflicts.

48. In Kashmir, women were routinely raped and subjected to violence by Indian forces. Since 1996, war rape in the area had increased to epidemic proportions. Only when the Indian army had withdrawn from Jammu and Kashmir, allowing the United Nations to conduct a plebiscite, as mandated by the Security Council, would such violence end.

49. Her organization had sent two video tapes to the Office of the United Nations High Commissioner for Human Rights concerning the situation in Chiapas, Mexico, together with testimony regarding tear-gas, produced in the United States of America, that had been used against Indian women there. Of nearly 20,000 war refugees, most were women, who were constantly harassed, raped and sexually humiliated by the Mexican armed forces. It was difficult to take legal action on their behalf, and victims could not even be helped by so-called humanitarian aid when - as in the case of a recent shipment from the Mexican Red Cross - it was a tragic fraud and consisted largely of expired medicines and diet pills. Their situation had become even more precarious as a result of the expulsion from Mexico of many international NGOs. The Sub-Commission should call on Mexico to allow free access by humanitarian and human rights groups, the provision of food and medicines, and the resumption of meaningful discussions aimed at peace and social development.

50. In Sri Lanka, the military forces had consistently used rape and violence against Tamil women. The perpetrators had been brought to trial in only one case, and government military forces continued to rape Tamil women with impunity. Moreover, many of the victims had disappeared. International aid was no longer reaching displaced women, as the Sri Lankan Government had recently expelled most humanitarian groups. The Sub-Commission should speak out and encourage meaningful dialogue between the parties to the conflict.

51. Ms. DIOP (African Commission of Health and Human Rights Promoters) said that women's rights were human rights and they cut across all aspects of the development process. No nation could expect economic growth under conditions where women - the guardians of future generations - were raped or subjected to violence.

52. Women represented more than half the population of the African continent, yet they took no part in decision-making, particularly the decisions that led to the many conflicts that had broken out in recent years. When conflicts occurred, however, it was they who were burdened with the responsibility for other vulnerable groups in society and themselves fell victim to a disproportionate extent.

53. Women's critical role in conflict was rarely recognized and their special skills as agents of reconciliation had not been harnessed. African women were no longer prepared to accept that situation. Beginning in 1993, when the Kampala Action Plan had been adopted, they had worked towards the creation of the African Women's Committee for Peace and Development, which had been announced in April 1998 by the OAU and ECA.

54. The Committee was the first body of its kind to include women from Governments and civil society, who would deal directly with regional bodies such as OAU and ECA; it would articulate grass-roots women's views on peace and development issues, thus helping to ensure the full participation of African women in the highest decision-making forum in the continent. She urged the international community to help make the Committee a success.

55. Ms. ARIAS URIBURU (New Human Rights) said that she wished to describe her case in the context of women's and children's rights. An Argentine citizen resident in Guatemala, she had married a Jordanian, Mr. Imad Shaban, in 1991, and had had three children. In July 1997, Mr. Shaban had taken Guatemalan citizenship, thereby renouncing his Jordanian citizenship. In October 1997, she and Mr. Shaban had separated. On 9 December 1997, the family court had granted her custody of the children under the law against domestic violence mentioned by the Special Rapporteur in her report on the health of women and the girl child (E/CN.4/Sub.2/1998/11, para. 28). The father was denied access to the family and she and the children were under the court's protection. However, the father, having obtained temporary custody by irregular means, had abducted the children on 10 December and taken them illegally to Jordan.

56. Until March 1998, when it had been confirmed that they were in Jordan with their father, she had had no information concerning the children. The father had meanwhile submitted a request for custody to a Jordanian religious court, which had no jurisdiction in the case.

57. The position in which her family found itself was a violation of international human rights norms and she appealed to the Sub-Commission to help her find a lasting solution which would be in the best interests of her children.

58. Mr. BALTI (Association tunisienne pour l'auto-développement et la solidarité - ATLAS) said that his organization worked to promote economic rights and the right to development and made a modest contribution to political, economic and social reforms in Tunisia. ATLAS was particularly concerned about the position of rural women, among whom, for various reasons, deprivation was increasing more rapidly than among men in the same environment. ATLAS projects adopted a participatory approach with the gender perspective integrated from the start. It had carried out projects involving rural women in a range of productive activities and giving them access to the means of production through microcredit schemes. It also ran literacy programmes and worked with the central Government and regional development councils to improve the infrastructure and promote appropriate technologies. ATLAS was thus helping women in many ways to exercise their rights and to participate actively as essential partners in development.

59. Ms. AVELLA (Women's International Democratic Federation) said that violence against women was on the rise in many parts of the world. In Afghanistan, women suffered permanent discrimination and lived in subhuman conditions of total submission. In East Timor, the occupation army tortured and raped women. The suffering of women in Kashmir was well-known and in Turkey Kurdish women were frequently tortured, killed or imprisoned. In Sri Lanka, Tamil women were treated as the spoils of war.

60. In Mexico, women suffered rape, intimidation, threats and disappearances. Women continued to be murdered with impunity in Colombia: two women politicians had been shot in the past four months and, only the day before, a journalist had been shot dead. Mercedes Usuga, Latin America's longest-standing political prisoner, imprisoned by faceless judges on trumped-up charges, was still in prison and in very poor health. Female prisoners in Peru suffered inhuman conditions and, despite the intervention of the Red Cross, not only their human rights but also those of family members were violated.

61. Various Arab countries continued to condone men's "crimes of honour" to punish female family members who had sexual relations outside marriage, and in Iran practices such as stoning to death or punishment for dressing incorrectly remained in place, even under the new Government.

62. Her organization found it regrettable that many Governments had not collaborated with the Special Rapporteur in her request for information on traditional practices affecting the health of women and hoped that a closer collaboration with the Office of the United Nations High Commissioner for Human Rights would assist her in her work.

63. Ms. JURT (European Union of Public Relations) said that, since prejudice against women still persisted everywhere, their rights and freedoms must receive special protection so as to enable them to realize their full potential and contribute meaningfully to social development. Women had, after all, proved themselves capable of being successful Prime Ministers, scientists, surgeons, astronauts and so forth. Whereas in tribal societies, women shared tasks equally with men, development often created more hurdles than opportunities. In many so-called "modern" societies, women were not permitted to drive alone, travel without a man's permission, or marry according to their own wishes. In such societies, moreover, urban women tendered to be more cloistered than their rural counterparts.

64. In developing countries, female infanticide, dowry deaths and the denial of education and opportunities to women were common phenomena. In some of the wealthiest countries too, women continued to be treated as second-class citizens. Many women, rather than fight discrimination, however, had accepted a form of emotional and financial security provided by men. Where they had united to assert their rights, they had achieved economic independence and even the respect of the very patriarchal societies that had subjugated them.

65. A veiled housewife could be as free as any woman in the workplace, but only as long as she was aware of her rights. When women achieved awareness, they challenged stereotypes, but awareness, which was the key to freedom,

was born from exposure to the world. In Afghanistan, the Pakistani-trained Taliban denied even the most basic of education to women, thereby denying them any meaningful role in society.

66. One day, the Taliban might well seek to impose a similar regime in Pakistan, where there were enough like-minded people who would welcome further oppression of women. It was thus heartening that the Human Rights Commission of Pakistan had sought to highlight ways in which Pakistani laws already restricted the rights and freedoms of women and that Pakistani women had decided to speak out against the treatment of women in Afghanistan.

67. If a similar environment was not to be repeated elsewhere, the women of the world must raise a united voice against all those sustaining the Taliban, be they the Pakistani authorities, United States business interests or religious fundamentalists.

68. Mr. SHOAIB (Muslim World League) said that the continued violation of the human rights of women and girls in Indian-occupied Kashmir was of particular concern to his organization. Women were the prime target of the brutal military operation waged by India in response to Kashmiri demands for self-determination. Molestation, rape and kidnapping at the hands of the military and paramilitary had become the norm, and violence against women in custody continued with total impunity. The Sub-Commission should urge the Government of India to invite the Special Rapporteur on violence against women to conduct impartial investigations into all such allegations.

69. Mr. Guissé resumed the Chair.

70. Ms. RAMIREZ (International Federation of ACAT (Action of Christians for the Abolition of Torture)) said that she knew from personal experience of the suffering of the indigenous women in Mexico at the hands of the authorities who should be protecting their rights: the police, the military, and the judiciary. During the night of 24 April 1997, some 80 State policemen had broken into her home in Santa Maria Jalatengo, State of Oaxaca, and had intimidated and assaulted her family in their beds. Her husband, Celerino Jimenez, had been taken away and tortured to death. She had been told that he had died in a "clash with the police", which was a blatant lie since they had been asleep when the police broke in. Many other indigenous women had lost their husbands in the same way, at least 90 of them to her own knowledge.

71. She hoped that the great sacrifices she had made in order to testify before the Sub-Commission would not be in vain and that the international community would urge the Mexican Government to put an end to the sufferings and the violation of the human rights of indigenous people.

72. Ms. GUL (All Pakistan Women's Association) said that, in situations of armed conflict, women were the easiest targets. Kashmiri women had been exposed to a consistent pattern of humiliation and violence, including gang-rape and abductions. Reputable human rights organizations had documented scores of testimonies of violence against women in Kashmir; hundreds of

stories remained to be told, and hundreds more would be carried to their graves by those who preferred death to the disclosure of the indignities they had suffered.

73. The Indian Women's Fact-Finding Commission had reported in 1997 that minor girls were hesitant to attend school as a result of sexual harassment from army personnel, and that many women in Kashmir suffered extreme anxiety and nervous breakdowns. The Indian authorities had, however, attempted to prevent the gross violations of human rights of Kashmiri women from coming to the attention of the international community. Only two days previously, Kashmiris with valid Swiss visas had been prevented from boarding their plane in New Delhi.

74. International human rights bodies such as the Sub-Commission had a special responsibility to protect and promote human rights of the most vulnerable members of society, namely women and children. It was to be hoped that the women of Kashmir would not be forgotten in their time of trial.

75. Ms. MANN (Liberation) said that the security forces of many States used emergency legislation to practise with impunity systematic rape and other violence against women, in direct breach of international standards. The Sub-Commission should pay particular attention to the situation in Sri Lanka, which was just as serious as those in Rwanda and the former Yugoslavia, as the findings of the Special Rapporteur on extrajudicial executions had shown (E/CN.4/1998/68/Add.2). Over 500 Tamil women were currently being detained without charge in Sri Lankan prisons.

76. In the occupied territories, women's freedom of movement was affected. Although many remained in their homes to avoid harassment, others had to accompany their children to school and were sexually abused in broad daylight. Often the military responsible for such violations was the only authority to whom the victim could make a complaint.

77. In Tamil-controlled areas, where large populations of displaced Tamils were located, an eight-year-long economic embargo continued to hamper the equal participation of women in development. Residential areas had been razed to the ground to make way for military operations, driving women from their homes. Civilians were also frequently the targets of air raids.

78. The Sub-Commission should call upon Sri Lanka to adopt adequate measures to combat violence against Tamil women and should recommend that a special rapporteur be sent to investigate Sri Lanka and other similar countries to report on the state of implementation of international human rights instruments, especially for the protection of women, in situations of armed conflict.

79. Mr. KHAN (World Muslim Congress) said that India had yet to submit its first report to the Committee on the Elimination of all Forms of Discrimination against Women (CEDAW). Women suffered gross and systematic violations of their rights not only in the occupied territory of Kashmir, but also in other integral parts of India. Thus, despite the Dowry Prohibition Act of 1961, dowry-taking was still widely practised, with discrimination and violence against girls whose dowries were considered inadequate.

Dowry-related suicides and "kitchen deaths" were common. The abortion and infanticide of female babies was widespread, the numbers involved being at least 10,000 a year. There were an estimated 500,000 street children in India, many of them engaged in prostitution and many thousands of children from Nepal were sold into prostitution in India every year.

80. The Government of India had itself acknowledged the continued existence of the "Devadasi" phenomenon, whereby girls were dedicated to a temple deity. The practice was prohibited in only a few Indian states, despite the fact that it amounted to a socially sanctioned form of exploitation and slavery.

81. In the occupied territory of Jammu and Kashmir, a new violation against women had evolved. As rewards for their service to the Indian Central Reserve Police Force and Border Security Force, mercenaries were being allowed to choose a woman each from the local population and marry her at gunpoint.

82. The Sub-Commission was urged to condemn the gross and systematic violations of the rights of women in India and Indian-occupied territories.

The meeting rose at 6.05 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Fiftieth session

SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 August 1998, at 10 a.m.

Chairman: Mr. GUISSÉ

later: Mr. WEISSBRODT

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CONTEMPORARY FORMS OF SLAVERY

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GE.98-13812 (E)

The meeting was called to order at 10.10 a.m.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 5) (continued) (E/CN.4/Sub.2/1998/11, A/52/38/Rev.1, E/1998/27-E/CN.6/1998/12)

1. Mrs. BELLAMY (International Confederation of Free Trade Unions - ICFTU) said that the globalization of the economy and the deregulation of the labour market had resulted in a deterioration of women's working conditions, an increase in the inequalities to which they were subject, particularly in regard to wages, and the development of such employment formulas as casual, part-time, temporary and home work.

2. Many women, particularly in developing countries, were not protected by adequate labour legislation and did not have minimum social coverage, particularly when they were "employed" in the informal sector, and in EPZ estates where they were particularly vulnerable to discrimination, violation of their human and trade union rights or sexual violence. A campaign should be launched against the employment of girls by setting a minimum age of admission to employment and by offering them the possibility of education.

3. Lastly, ICFTU called for compliance with ILO Conventions which sought to protect women at work, particularly Convention No. 111 on discrimination (employment and occupation) and Convention No. 100 on equal remuneration between men and women.

4. Mrs. GIRMA (African Association of Education for Development) said that throughout history men had dominated the world, a world of intolerance, hate, wars and massacres. It was therefore necessary in the best interests of humanity to explore the qualities that women had acquired during the course of their history of suffering and submission, such as a love of harmony, humility, modesty, patience and pragmatism. Such were the qualities required to settle disputes.

5. Indeed, equal participation with men in political, economic, social and cultural life did not imply imitating them. Women should demonstrate creativity and, more particularly, show that they could succeed without riding roughshod over others.

6. An intensive educational campaign should be launched against the crime of rape, whether committed by members of the armed forces or by other individuals. The crux of the problem lay in the fact that the act was not seen as vile because it was equated with a particular image of male performance. Unfortunately, the subject invited laughter and derision.

7. Lastly, she commended the courage of Algerian women in their endeavours to achieve peace and tolerance. She urged the Sub-Commission to give

Mrs. Warzazi more resources by allowing her to work with the Activities and Programmes Branch of the Office of the High Commissioner for Human Rights.

8. Mr. IDRIS (Observer for Sudan) said that women in Sudan had enjoyed full political and civil rights since 1964. For example, the Public Service Act stipulated that selection for public office should be based on merit and competence; it also embodied the principle of equal pay for equal work. Under the new Constitution, children born to Sudanese mothers automatically acquired that nationality. Mothers were entitled to eight weeks' maternity leave and reduced working hours for two years, without loss of pay, to permit them to breastfeed their infants. Sudanese women currently occupied positions of responsibility in all spheres, such as members of Parliament, supreme court judges, doctors, diplomats and university professors. The number of women in higher education was over 50 per cent in all specialized fields.

9. However, much remained to be done. For example, there were still few women in senior civil service posts and women accounted for only 27 per cent of the workforce. In addition, 44 per cent of women were illiterate, as compared to 25 per cent of men. In regard to health, the establishment of vaccination and health centres for women, including family planning services, had substantially reduced the maternal death rate. Nonetheless, due to a lack of financial and human resources, only 30 per cent of women received post-natal care; the Government was actively seeking assistance from the United Nations and from NGOs to improve that situation.

10. The Government and civil society were jointly combating customs and traditions that were harmful to women's health, and in particular genital mutilation which had been made a criminal offence. He applauded the work of the Special Rapporteur, Mrs. Warzazi, in combating traditional practices that were harmful to the health of women and girls. In future, the Government would furnish more extensive information on the action it had taken to eradicate such practices.

11. Mr. HUSSEIN (Observer for Iraq) said that the Shariah gave men and women equal rights and that the Constitution embodied the equality of all before the law. Indeed, women occupied prominent positions in all spheres of political, economic and cultural life. Iran had ratified the Convention on the Elimination of All Forms of Discrimination against Women and was preparing its second periodic report for submission to the Committee on the Elimination of Discrimination against Women.

12. The embargo to which Iraq had been subject for the past eight years had had serious effects on the health of the population, and particularly on that of women and children. Despite the Government's efforts, a large number of children were dying of malnutrition. The Iraqi Government warmly welcomed the Sub-Commission's request that the embargo should be lifted and that Iraq's population should be permitted to enjoy their human rights in accordance with the Universal Declaration of Human Rights.

13. Mrs. PEREZ DUARTE (Observer for Mexico) said that the Mexican Government was endeavouring to reduce gender inequality and was collaborating closely with civil society, non-governmental organizations (NGOs) and international

mechanisms in pursuing a policy to promote the active participation of women on an equal footing with men in Mexico's political, social and economic life.

14. It had introduced a series of concrete measures to assist poor and marginalized women by providing them with access to credit or the right to ownership or usufruct of land, in the context of the national programme for women introduced in 1996, the implementation of which was controlled by women themselves and by society as a whole.

15. The Mexican Government condemned all forms of violence against women, whether by individuals or by agents of the State, and the Federal Government had launched a programme, in collaboration with State Governments, to prevent and eliminate all forms of violence against women. Moreover, machinery had been created to provide rape victims with medical, legal and psychological support. Judges with special training also dealt with crimes of that nature. It was essential that women should be encouraged to overcome their fear and report cases of rape, so that those responsible could be brought to trial and punished, thereby putting an end to impunity for such crimes.

16. Mr. KHERDAM (Observer for Iran) said that violence against women was far from eliminated and was due in particular to an absence of support for the family, declining moral values and the absence of appropriate regulatory, administrative and legislative provisions which would make an effective contribution to the emancipation of women. In that connection, the role played by the United Nations Development Fund for Women (UNIFEM) and the establishment of a Trust Fund in Support of Action to Eliminate Violence against Women were to be commended. The plight of women and children in Afghanistan, in particular, had reached such alarming proportions that the international community should urgently take steps to remedy the situation.

17. A number of measures to combat violence against women were planned, under the national plan of action to implement the results of the Fourth World Conference on Women, including information campaigns on the rights of women, inquiries into the causes of violence against women, the assessment of the effectiveness of preventive measures and the enactment and enforcement of laws intended to eradicate violence against women.

18. The Iranian Government emphasized the importance of the role that might be played by international cooperation in combating such inhuman and degrading treatment as the trafficking in women for purposes of sexual exploitation. Iran also welcomed the collective contributions to the drafting of a convention on the elimination of all forms of sexual exploitation of women and of standard minimum rules for the treatment of victims of trafficking in persons, forced labour and slavery-like practices. The Working Group on Contemporary Forms of Slavery should be congratulated on its efforts to eliminate the sexual exploitation of women.

19. Mr. CHOWDHURY (Observer for Bangladesh) said that much remained to be done, particularly in developing countries, before equality was achieved between men and women, particularly in the areas of education, health, employment and wages.

20. In Bangladesh, the Ministry of Women's Affairs was responsible for coordinating policies and programmes to reduce such inequalities and to rescue women from exclusion. Non-governmental organizations participated in that task. Mention might be made in that connection of the system for granting microcredit to women, particularly in rural areas. In addition, education for girl children had been made free up to grade VIII in order to encourage female literacy. Specific measures had been introduced to increase women's participation in both the public and private sectors. A number of positions were reserved for women in the civil service; day-care centres had been set up so that women with children could work. A specific number of seats in Parliament were reserved for women, and he noted that both the Prime Minister and the leader of the opposition were women. Legislative measures had also been introduced to guarantee the rights of women and to protect them from various forms of violence, and a special commission had been set up to identify any gender bias against women in legislation.

21. Bangladesh was cooperating with other countries in the South Asia region in combating various forms of violence against women, including trafficking, rape and kidnapping. A regional convention to combat the crime of trafficking in women and children was under preparation.

22. However, the economic obstacles encountered by developing countries, particularly the least developed, were hampering efforts to promote the rights of women. For that reason, the international community and the United Nations system should help such countries to achieve economic development and effectively to eradicate all forms of discrimination against women.

HUMAN RIGHTS OF INDIGENOUS PEOPLES

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (agenda item 7) (E/CN.4/Sub.2/1998/15, 16 and 17 and Add.1)

23. Mrs. DAES (Chairperson-Rapporteur of the Working Group on Indigenous Populations), introducing the report of the Working Group on Indigenous Populations on its sixteenth session, which had been held in Geneva from 27 to 31 July 1998 (E/CN.4/Sub.2/1998/16), said that once again the Working Group had been a forum for reconciliation and constructive dialogue between Governments and indigenous peoples. It continued to provide an opportunity for indigenous peoples to express their concerns and for Governments to present information on their efforts to bring about peaceful and constructive change. Almost 1,000 people had attended the Working Group, including representatives of States, of intergovernmental and non-governmental organizations and of indigenous organizations and peoples. As at previous sessions, discussions had been devoted primarily to recent developments affecting indigenous peoples. The Working Group had been gratified to hear of positive developments in relations between particular Governments and indigenous peoples.

24. For the first time, the Working Group had chosen to focus on the theme of "indigenous peoples, education and language", to which a number of meetings had been devoted, and a large number of education and language specialists, as well as indigenous educators and teachers working with indigenous communities and peoples working with their local communities to revive their languages had

expressed their views on the subject. The discussions had revealed the need to ensure that indigenous peoples had better access to all forms and levels of education, that public education systems were sensitive to the needs of indigenous peoples and that they appropriately reflected their cultures and histories and were equipped to assist those peoples in protecting the use of their languages. A number of States that wished to respond to the aspirations of their indigenous peoples in the area of education were seeking to ensure that indigenous peoples had control over the education they received. The Working Group had benefited greatly from the contributions of specialized agencies, and in particular UNESCO, on that issue.

25. Participants had also discussed other important issues such as the health of indigenous peoples and the introduction of standards relating to indigenous peoples within the United Nations system, including progress in preparing a draft declaration on the rights of indigenous peoples. Informal consultations had taken place between a number of participants in the Working Group and representatives of private sector mining and energy enterprises; such contacts contributed to fostering a climate of confidence in relations between indigenous groups and the private sector.

26. The Working Group had also considered the final report on the Study on treaties, agreements and other constructive arrangements between States and indigenous populations, drawn up by Mr. Alfonso Martínez (E/CN.4/Sub.2/1998/17 and Add.1), the establishment of a permanent forum for indigenous peoples within the United Nations system, the celebration of the International Decade of the World's Indigenous People and, in particular, the progress that had been made in implementing the programme of activities for the Decade at the domestic level. The International Day of Indigenous People had been celebrated on the last day of the Working Group's session, and participants had thus been able to attend the cultural events staged by indigenous groups from all over the world.

27. Following consultations between the Office of the High Commissioner for Human Rights, the Chairperson-Rapporteur of the Working Group on Indigenous Populations and the secretariat, UNESCO had been invited to host the following year's session of the Working Group in Paris. Since the Director-General of UNESCO, Mr. Federico Mayor, had responded positively to the proposal, members of the Working Group had discussed the practical aspects of the question. The move to Paris would apply only to the seventeenth session, since United Nations work on indigenous populations would remain centred in the United Nations Office at Geneva and consequently the links which connected many indigenous people with Geneva and with Switzerland would not be severed. The Working Group intended to assemble further information and to consult the indigenous peoples before a final decision was taken. She invited the members of the Sub-Commission to present their views on the matter. She was inclined to view the possibility favourably since it would provide an opportunity to focus on indigenous problems in the areas of education, science and culture and would generate wider public interest in matters relating to indigenous peoples. It would also enhance the coordinating role of the Office of the High Commissioner for Human Rights in promoting the objectives of the Decade and would offer concrete benefits to Governments and indigenous peoples alike.

28. Lastly, she raised the issue of the inadequate support that the Sub-Commission received from the secretariat in its work with indigenous populations. Indeed, while the team of secretariat staff responsible for those matters had been reduced by two as a result of restructuring, its workload had increased with the establishment of a special working group on the creation of a permanent forum for indigenous peoples, pursuant to Commission resolution 1998/20, and the implementation of the programme of activities for the International Decade of the World's Indigenous People. The Working Group on Indigenous Populations needed highly-qualified staff if it was to fulfil its mandate.

29. Introducing the progress report on the working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1998/15), which she had prepared pursuant to Commission decision 1997/114 with a view to suggesting practical measures to address problems in that sphere, she referred to the preliminary working paper (E/CN.4/Sub.2/1997/17 and Corr.1) she had submitted to the Sub-Commission at its forty-ninth session. Its purpose had been to promote understanding between indigenous peoples and States concerning land issues, to provide information and analyses that could contribute to the just resolution of such issues, and to enhance understanding of the provisions relevant to land rights contained in the draft United Nations declaration on the rights of indigenous peoples (E/CN.4/Sub.2/1994/2/Add.1). Special attention had been devoted to identifying and examining practical measures to address serious ongoing problems. The working paper had been transmitted by the Secretary-General to Governments, indigenous peoples and intergovernmental and non-governmental organizations for their comments and suggestions. Only four States, namely, Australia, Canada, Denmark, and New Zealand had as yet responded, providing very helpful information, analyses and constructive criticism. Eleven indigenous peoples' organizations or organizations associated with indigenous people had also replied, some submitting extensive and useful information.

30. Certain significant developments that had occurred since the preliminary working paper had been drafted would be included in the final working paper, and in particular the decision of the Supreme Court of Canada in Delgamuukw v. the Queen, the issue of the extinguishment of indigenous land rights in Australia, the consideration by the Waitangi Tribunal of Maori land claims, together with specific and factual information about land issues in various parts of the world and the settlement of land disputes provided by indigenous organizations and the Inter-American Commission on Human Rights respectively.

31. The scope and complexity of the subject, and the limited number of replies received meant that it had not yet been possible to prepare the final working paper; it would, however, be submitted to the Working Group on Indigenous Populations at its seventeenth session and to the Sub-Commission at its fifty-first session. Paragraph 18 of the progress report under consideration listed some possible issues for preliminary analysis. She invited members of the Sub-Commission, Governments, indigenous organizations, United Nations organs and bodies and NGOs to contribute to the fulfilment of the task entrusted to her by suggesting additional issues.

32. Mr. YOKOTA said that Mrs. Daes' progress report, which provided an overview of the progress made on the important and sensitive matter of indigenous peoples and their relationship to land, summarized in a highly professional and objective manner the few replies received from Governments and indigenous organizations. Reporting on recent developments in that sphere in Japan, he said that in 1997, following long and arduous discussions and negotiations, the Diet had eventually adopted new legislation for the Ainu people, replacing the existing Act that had been promulgated a century previously. The new Act contained a number of provisions for the fair and equal treatment of the Ainu people who had long suffered discrimination, poverty and the effects of the assimilation policy. In March 1997, in the Nibutani case, the Sapporo District Court of Hokkaido had recognized the indigenous character of the Ainu people and had emphasized the need to promote and protect their distinct cultural heritage which had been neglected for so long. Such developments were not widely known because both the new Ainu law and the Nibutani judgement were available only in Japanese; he would, however, endeavour to have them translated into English so that Mrs. Daes could cover them in her final working paper, which he looked forward to reading in 1999.

33. Mr. EIDE emphasized the importance of indigenous land rights in an area in which rapid developments were taking place in many countries, such as Australia. ILO Convention No. 169, which had been ratified by a number of countries, including Norway, would no doubt play an important role in that area. The study that had been made in Norway on the land rights of the Sami certainly owed a lot to the Convention and to the Sub-Commission's work.

34. Mr. KARTASHKIN endorsed the interesting and constructive conclusions and recommendations submitted by Mrs. Daes in her progress report on indigenous peoples and their relationship to land and said that the quest for solutions to problems in that area would certainly be facilitated by constructive dialogue between Governments and indigenous peoples. It was important that Mrs. Daes should continue her work on the subject and that she should consider the best ways in which land issues might be settled in a fair and just manner.

35. The matters raised in the report had a direct bearing on the Russian Federation which had over 30 indigenous peoples in the north, in the Far East and in Siberia. In March 1998, the committee which had been established by the Russian Federation, and of which he was a member, had, together with a number of NGOs, organized a conference on human rights and indigenous peoples in the context of national policy. The conference had ascertained that, while regulations existed at the regional level, there was no federal law relating to indigenous peoples, and had requested Parliament to promote the adoption of relevant legislation. It had further requested that someone should be appointed to assume responsibility for matters relating to indigenous peoples to ensure that they were appropriately represented in the Federal Parliament and in regional parliaments. The Working Group on Indigenous Populations should study the question of the ratification of ILO Convention No. 169 and the problems encountered by States in that connection. The Russian Parliament had considered the ratification of the Convention but had not yet taken a final decision in the matter.

CONTEMPORARY FORMS OF SLAVERY (agenda item 6) (E/CN.4/Sub.2/1998/12 to 14 and E/CN.4/Sub.2/1998/CRP.1)

36. Mr. Weissbrodt (Vice-Chairman) took the Chair.

37. Mrs. McDOUGALL, introducing her final report on systematic rape, sexual slavery and slavery-like practices during armed conflict (E/CN.4/Sub.2/1998/13), said that, reinforcing the conclusions of her report, the Rome Statute of the International Criminal Court, specifically recognized that sexual violence and sexual slavery committed in the context of either an internal or an international armed conflict might constitute crimes against humanity and war crimes falling within the jurisdiction of the future court. It would be important for the Sub-Commission to follow the work of the court, once it had been established in The Hague, in connection in particular with the issue of gender crimes and sexual violence, during the future meetings of the Assembly of States Parties which was to endeavour to establish in more precise terms the exact nature of the crimes that would fall within the court's jurisdiction.

38. The report exposed the paradox that while sexual violence had occurred in virtually every armed conflict, and while the international framework for prosecuting crimes of sexual violence had long existed, very few prosecutions for acts of sexual violence committed in armed conflict had actually taken place. The international community had not cared enough about those crimes to take effective steps to prosecute them. After defining core crimes, the report discussed the applicable provisions of international law for prosecuting cases of sexual violence, noting that many cases of sexual violence that occurred during armed conflict might most appropriately be characterized as slavery. With respect to war crimes, the report examined the issues raised by the fact that the majority of the world's contemporary armed conflicts were civil conflicts rather than international wars.

39. Since the beginning of the century, the international community had recognized that, even in conflictual situations that were not covered by humanitarian treaty provisions, both combatants and civilians "remained under the protection and the rule of the principles of the law of nations". In particular, common article 3 of the Geneva Conventions of 1949, which were part of customary international law, set out the protections that all parties to a conflict must respect, including all parties to internal conflicts that were not otherwise covered by the Geneva Conventions. The provisions of common article 3 were important in that they governed the behaviour of both State and non-State actors in civil conflicts. The new Statute of the International Criminal Court also recognized the importance of prosecuting acts of sexual violence committed during civil wars.

40. The report further emphasized that a broad range of actors often contributed to the commission of international crimes during armed conflict situations and that the condemnation of responsible parties at all levels was essential for the prevention of such crimes. The most obvious category of responsibility for international crimes attached to those who personally committed acts of sexual violence which constituted slavery, crimes against humanity, genocide, war crimes or torture. In addition, under the legal doctrine of command responsibility, military commanders, superiors and other

political or civil authorities were responsible for the crimes committed by their subordinates. Persons who instigated or incited the commission of egregious international crimes belonged to another category of legal responsibility. Finally, there were those persons who were complicitous in international crimes by carrying out certain acts or functions in the bureaucracy or political process. Such offenders were often civilians who were frequently outside any given chain of command. Their functions might be quite compartmentalized and their actual knowledge of wrongdoing might be incomplete, and consequently it would be most appropriate to hold such functionaries to a standard of reasonable inquiry.

41. In conclusion, the report noted that to end the cycle of impunity that currently existed for acts of sexual violence and sexual slavery during war required political will as well as concerted action on the part of all, and that improvement of the effectiveness of the existing legal framework was a critical component of any such action. The report advanced a number of recommendations to that end.

42. Appended to the report was an analysis of the legal responsibility of the Japanese Government regarding the "comfort stations" established during the Second World War; the conclusion was reached that the Japanese Government have a legal responsibility for the abuses committed and had an obligation to prosecute those who had taken part in the rapes and to pay compensation to the victims. Despite the public apologies offered by the Japanese Government, it continued to deny legal liability for the establishment and management of the camps. The United Nations High Commissioner for Human Rights should work to bring about the prosecution, in Japan and elsewhere, of those responsible for the atrocities that had clearly been linked to the establishment by the Japanese army of rape camps. It was incumbent upon the United Nations to ensure that Japan fully satisfied its obligation to seek out and prosecute all those responsible for the "comfort stations" who remained alive and that other States similarly should do all they could to assist in the capture and prosecution of offenders in other jurisdictions. The Asian Women's Fund, which had been established in 1995, did not satisfy the responsibility of the Government of Japan to provide official legal compensation to those women who had been victims of the "comfort women" tragedy, since the money collected for the Fund was not intended to acknowledge the Japanese Government's legal responsibility.

43. Lastly, the international community had waited too long to become involved in the conflicts in Rwanda and in the former Yugoslavia, despite reports of massive violations against the life and liberty of men and women. It must respond more quickly to early warnings of situations of armed conflict, and humanitarian, diplomatic and preventive action must incorporate measures to combat sexual or gender-based violence. Without full equality and full participation of women in the economic, social and cultural life of their societies, any steps taken to prevent systematic rape or sexual slavery during armed conflict or to rebuild societies recovering from such conflicts would ultimately fail.

44. Mr. YIMER welcomed the very painstaking and comprehensive report which had been submitted and which constituted an extremely important study from the point of view both of the fundamental rights of women and of the development

of international law. It included a number of points which deserved particular attention, including the statement in paragraph 8 that practices involving the treatment of women as chattels were both in fact and in law forms of slavery and, as such, violations of the peremptory norm prohibiting slavery. Paragraph 34 contained another important point to the effect that the legal framework for prosecuting sexual slavery and sexual violence had evolved from at least three different sources of law, including human rights, humanitarian and international criminal law, each with different customary and treaty-based origins and historical precedents. Paragraph 36 went on to note that sexual slavery and sexual violence when committed during armed conflict might be characterized under certain conditions as customary violations of jus cogens norms. He was of the opinion that such acts should be characterized as violations of that nature. Another extremely important passage (para. 37) stated that slavery, crimes against humanity, genocide, certain war crimes and torture were subject under customary international law to universal jurisdiction; if that were not the case, law would be ineffectual.

45. In regard to individual responsibility, he noted that a broad range of actors had contributed to the commission of international crimes during armed conflict (para. 74). In the current context, he welcomed the fact that legal responsibility applied to persons who instigated or incited the commission of international crimes, particularly persons who created the political or social climate which made the commission of such crimes possible (para. 81). Another important development was the questioning of the degree of responsibility of individuals who were complicitous in international crimes by carrying out certain acts or functions in the bureaucracy or political process (para. 83). Equally important was the fact of recognizing that international crimes committed during armed conflict were often the result of an orchestrated policy of the State apparatus (para. 84).

46. The report rightly emphasized the existing inadequacies of law and of internal procedure, which was a major problem that should be remedied. Paragraph 98 contained the important recommendation that the Statute of the International Criminal Court should be interpreted as requiring that the crimes in question should be prosecuted at the international level under the Court's jurisdiction whenever a State which had jurisdiction over the crimes in question was unwilling or unable to carry out an investigation or prosecution.

47. All the recommendations contained in the report were useful and should be adopted. He emphasized, specifically, those regarding the removal of gender bias in municipal law and procedure, the adequate protection for victims and witnesses, the appropriate support services for victims, the matter of the permanent International Criminal Court and documentation with a view to eventual prosecution (paras. 103-107). Lastly, he drew attention to paragraph 115 which emphasized that armed conflict exacerbated the discrimination and violence directed at women everywhere, every day.

48. Mr. SIK YUEN noted that the report had been submitted at a most opportune time when rape was being systematically and perniciously used as a tool of war and of intimidation, and was on occasion tolerated or encouraged by agents of the State. However, a new attitude was developing which

considered sexual violence committed during armed conflicts to be a serious international crime. The report strongly condemned the treatment of "comfort women" during the Second World War and new prospects had been opened up by the indictment of crimes based on sexual violence by the two ad hoc international tribunals for the former Yugoslavia and for Rwanda. The forthcoming establishment of an international criminal court was also to be welcomed. Acts of sexual violence committed during armed conflicts were regarded as crimes against humanity and violations of jus cogens norms, and States, including successor Governments, had a duty to ensure that the perpetrators of such crimes were brought to trial. The ultimate message of the report was a cry from the heart that justice should be done, that dignity should be repaired and that such violations should never happen again. The would-be perpetrators of crimes against humanity knew that, in future, they would be punished for their crimes.

49. Mrs. WARZAZI (Chairperson-Rapporteur of the Working Group on Contemporary Forms of Slavery), introducing the report of the Working Group on Contemporary Forms of Slavery on its twenty-third session (E/CN.4/Sub.2/1998/14), said that the task of the Working Group was to identify the different contemporary forms of slavery and to facilitate the establishment of dialogue between those who defended the victims of such violations and politicians who were not always fully aware of the problem. She emphasized that the participation of United Nations specialized agencies, bodies and organizations in the Group's work was essential, and regretted that the scheduling of meetings had meant that several of them had been unable to take part in the Group's session; she asked the Office of the High Commissioner to look into the problem.

50. Nonetheless, the importance and value of the contributions of NGOs which had taken part in the session to some extent compensated for the absence of the specialized institutions. Their information and often moving testimony had certainly been extremely useful. Two NGOs in particular had submitted studies on two important topics to the Group. The International Movement Against All Forms of Discrimination and Racism (IMADR) had prepared a working document on the need to strengthen the international system to eliminate the traffic in persons and the exploitation of the prostitution of others (paras. 17 to 20). The Working Group had considered the study to be so useful that it had asked the secretariat to make a summary to be appended to the Group's other official working documents. IMADR had also submitted to the Working Group a draft reference manual on trafficking in women in Asia, containing information and recommendations for government officials and citizens trying to put an end to such trafficking. Anti-Slavery International had provided the Group with information on the many violations of which child domestic workers were victims and on the various measures that had been adopted to improve their lives (section IV A).

51. The previous year, the Working Group had decided to give priority attention during its twenty-third session to the matter of economic exploitation, in connection with which ILO had made a valuable contribution. With regard to the sexual exploitation of children, the Special Rapporteur on the sale of children, child prostitution and child pornography, Mrs. Calcetas-Santos, had participated for the first time in a session of the Working Group. She had undertaken to provide information, in her next report,

on the relationship between employment and prostitution and had emphasized that, to an increasing extent, child prostitution involved boys (paras. 68 to 70). In connection with the more general issue of trafficking in persons and the various aspects of the exploitation of prostitution, NGOs had decided, in response to a suggestion by the Working Group, to organize a seminar on the subject in 1999 prior to the Working Group's session without financial support from the United Nations. For that reason, she thought the NGOs involved might be interested in the new Act that had been adopted by Sweden, penalizing persons who had resort to paid prostitution. She requested the Office of the High Commissioner for Human Rights to make a suitable room available for the seminar.

52. The Working Group had also reviewed the implementation of conventions dealing with slavery, based in particular on the working document drawn up at its request by the International Movement Against All Forms of Discrimination and Racism (IMADR). The Working Group had concluded that no effective international mechanisms existed to combat contemporary forms of slavery, and had therefore asked Mr. Weissbrodt and Anti-Slavery International, in consultation with the NGOs involved, to draw up a detailed study of existing treaty and customary law relating to all traditional and contemporary slavery-like practices, and of the relevant monitoring mechanisms. In addition, it had requested the Office of the High Commissioner for Human Rights to submit to the Group at its twenty-fourth session, a compilation of recent information on trafficking in women and children, together with measures that might be taken in that sphere at the national and international levels. She welcomed the joint meeting that had been held with members of the Committee on the Rights of the Child, at which views had been exchanged on the respective terms of reference and shared objectives of the two bodies, and on cooperation and exchanges of information between them.

53. Referring to the recommendations adopted by the Working Group (para. 97), she said that it had concentrated mainly on the worrying problem of corruption and its role in the continuation of slavery-like practices, and on the abusive use of the Internet for purposes of sexual exploitation. Indeed, given that 100,000 children were sold each year through the Internet, the freedom of information argument ceased to be valid. In response to such horrifying situations, Germany, which intended to recommend the adoption at the European level of an international convention against child pornography on the Internet, as well as Switzerland, had already reacted to that new development, the dangers of which had rightly been emphasized by Mr. Maxim.

54. Lastly, she appealed once more to all countries to make appropriate contributions to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. She thanked all those whose participation in the deliberations of the Working Group had served to advance the cause of human rights a little further.

55. Mr. GUISSÉ resumed the Chair.

56. Mrs. GANDHI (Indian Council of Education) said that, unfortunately, in South Asia, various forms of child exploitation were being exacerbated by poverty and unemployment. Only recently had Indian children been sent to Saudi Arabia to beg. It was apparent therefore that the principles embodied

in the Declaration of the Rights of the Child and in the Convention on the Rights of the Child, and the commitments that had been entered into at the 1990 World Summit for Children and subsequently at the 1995 World Summit for Social Development remained largely unrealized. While it was true that the struggle against child exploitation could only be won through economic development, education and, possibly, the adoption of a protocol, nonetheless, the exemplary punishment of those responsible was also essential if such abuses were really to be extirpated.

57. With the assistance of NGOs and relevant international bodies, the Indian Government was committed to implementing the provisions of the Convention on the Rights of the Child, particularly through awareness-raising and information. Meanwhile, NGOs were active in all spheres (education, health, justice, nutrition) involving the rights of the child. The Indian Council of Education therefore urged all developing countries to entrust NGOs with the responsibility of implementing the Convention on the Rights of the Child in order to associate more and more people with that task.

58. Mr. WIEBALCK (Christian Solidarity International - CSI) said that he had ascertained during his visits to Sudan, accompanied by independent journalists, that the scourge of slavery continued unabated in that country, as had been confirmed by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan, Mr. Biro, in his latest report (E/CN.4/1998/66). During recent offensives by members of the National Islamic Front (NIF), further thousands of women and children had been abducted, some of them in close proximity to distribution points of the World Food Programme (WFP). Since the Sub-Commission's last session, CSI had, under its slave redemption programme initiated in 1995, purchased the freedom of 1,932 individuals who had been enslaved in Sudan, some of whom had been subjected to all manner of ill-treatment. It intended to continue its activities, which had been well received by the Arab and African populations of the regions involved, and refused to be intimidated by the Sudanese Government's accusations that its activities defamed Islam.

59. CSI, which would submit a list of 103 names of women and children currently enslaved in Sudan to the High Commissioner for Human Rights, drew attention to the fact that article II (e), of the Convention on the Prevention and Punishment of the Crime of Genocide provided that "forcibly transferring children of one group to another group" covered child slavery and was punishable under articles III and IV of the Convention. CSI had been unable to participate in the twenty-third session of the Working Group on Contemporary Forms of Slavery and was therefore all the more disappointed to find no mention of slavery and the slave trade in Sudan in the Group's report, despite the recent conclusions of the Commission's Special Rapporteur on the human rights situation in Sudan.

60. The international community could not sit idly by in the presence of such a scourge. The High Commissioner for Human Rights, the Sub-Commission and its Working Group on Contemporary Forms of Slavery should insist on access for human rights monitors to all areas in the Sudan, set up a system to locate young people who had been enslaved in Sudan and return them to their families in the south, and support Arab clans which cooperated with the African communities of the south in returning the victims of slavery to their homes.

61. Mr. KIM Hong Bom (International Association of Democratic Lawyers - IADL) said that Mrs. McDougall, Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict, had submitted an extremely interesting report (E/CN.4/Sub.2/1998/13). IADL noted that the Japanese authorities were yet again employing every possible means to avoid acknowledging their responsibility for, among other crimes, the abduction of 200,000 Korean girls and women during the occupation of Korea and forcing them to become "comfort women". Six million Koreans had been forced to engage in hard labour by the Japanese imperialists and 1 million innocent Koreans had been slaughtered. Far from honestly recognizing its crimes, Japan was endeavouring to obstruct the discussion of the subject within the United Nations and had even brought pressure to bear on Mrs. Coomaraswamy, Special Rapporteur of the Commission on Human Rights on violence against women, to refrain from mentioning "comfort women" in her report. Moreover, the issue was omitted from Japanese school textbooks and a notorious Japanese war criminal had even been portrayed in a film as a national hero.

62. Japan could not be allowed to consign its crimes to oblivion and to elude the responsibility in the matter of "comfort women" that the international community had already attributed to it six years previously. The Japanese Government should admit and apologize for its past crimes, in the interest of friendship among all peoples. IADL urged the Sub-Commission and its Working Group on Contemporary Forms of Slavery to take the appropriate steps with regard to the Japanese Government. He hoped that Mrs. McDougall's report would be approved.

63. Mrs. TANAKA (International Movement Against All Forms of Discrimination and Racism - IMADR) said that her organization had prepared a report for the Working Group on Contemporary Forms of Slavery on measures to eliminate the traffic in persons and the exploitation of the prostitution of others, which had been issued as document E/CN.4/Sub.2/1998/CRP.1, and looked forward to any comments on it.

64. It was clear that increasing numbers of women and children were being sexually exploited and, as such, were subject to discrimination on account either of their indigenous origin or their position as foreign migrants. Since the signature, almost 50 years previously, of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the sex industry had become globalized. Its victims were not only exploited, but also experienced discrimination and racism to differing degrees, both in their countries of origin and in the countries of destination. Many Asian women and children were being trafficked to Japan and neighbouring countries as well as to Europe. Trafficking also existed from the Russian Federation and the countries of Eastern Europe to Western Europe, Japan and Thailand. The "commodities" sold by the world sex industry were women and children whose straitened circumstances made them easy prey for traffickers. While there were situations in some rich countries where the victims of that industry were treated as "workers" under contract and, as such, were protected by law, most had no rights and were obliged to sell their bodies for a long period in order to repay the "debt" by which they were bound. Many others were "slaves" in the strict sense, in that they received no remuneration whatsoever. While some victims were reduced to slavery by

force, others gave themselves up more or less freely to traffickers for financial reasons, but it could not really be said that they genuinely had a free choice.

65. The international community must react to the problem. She recommended that more extensive information might be obtained by coordinating the State reporting procedures outlined in the Convention on the Elimination of Discrimination against Women with those relating to the Convention on the Rights of the Chile, in collaboration with the Working Group on Contemporary Forms of Slavery. IMADR welcomed the fact that the Working Group had decided to examine, as a matter of priority, the issue of the international trafficking in women and girls for purposes of sexual exploitation at its next session in 1999, and that it planned to organize a seminar on the subject in conjunction with NGOs and members of the Working Group. The Sub-Commission should also urge the Commission on Human Rights to request the Special Rapporteur on violence against women to highlight that issue in her report for submission in the year 2000 and to include recommendations regarding specific measures to take account of the globalization of the sex industry. Lastly, she announced that the reference manual entitled Trafficking in Women in Asia: from Recognition to Response, which was designed for training public officials and private citizens, was available in English and would shortly be published in Japanese and in Thai.

The meeting rose at 1.05 p.m.